

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN ROBERT DEMOS, JR.,

CASE NO. C21-541BHS

Petitioner,

INDICATIVE RULING ON REPORT AND RECOMMENDATION

DONALD R. HOLBROOK,

Respondent.

THIS MATTER is before the Court on Magistrate Judge J. Richard Creature's

Report and Recommendation, Dkt. 2, recommending that the Court (1) deny Petitioner John Demos' Motion for Leave to proceed *in forma pauperis* and his proposed § 2254 habeas petition, Dkt. 1; (2) direct the Clerk to administratively close this case; and (3) deny a Certificate of Appealability.

Demos is the subject of a Bar Order requiring him to pay the filing fee for any claim seeking an extraordinary writ, including those under § 2254. See *Demos v. Stanley*, MC97-0031-JLW (W.D. Wash. Mar. 13, 1997). He did not pay the filing fee, and this appears to be a second or successive habeas petition. This Court would therefore ADOPT

1 the Magistrate Judge's Report and Recommendation, deny the petition, close the case,
2 and deny a Certificate of Appealability.

3 Demos did not object to the Report and Recommendation and instead appealed it
4 to the Ninth Circuit. Dkt. 3. If and to the extent Demos' appeal deprives this Court of
5 jurisdiction to enter an Order adopting the Report and Recommendation under Federal
6 Rule of Civil Procedure 62.1 and Federal Rule of Appellate Procedure 12.1(a), the Court
7 STATES that it would enter such an Order if the case were remanded for that limited
8 purpose.

9 If the matter is not remanded, the Court will DEFER a ruling on the Report and
10 Recommendation until the appeal is resolved.

11 **IT IS SO ORDERED.**

12 Dated this 28th day of June, 2021.

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BENJAMIN H. SETTLE
United States District Judge